

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEREIDA REQUENA,

Plaintiff,

23-cv-7162 (PKC)

-against-

ORDER ON REMAND

MARIA GBUR, M.D., MONTEFIORE FAMILY
HEALTH CENTER, MONTEFIORE MEDICAL
CENTER, LINCOLN MEDICAL CENTER and
NEW YORK CITY HEALTH AND HOSPITALS
CORPORATION,

Defendants.

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CASTEL, U.S.D.J.

This Order on Remand accompanies the Stipulation and Order of Dismissal separately filed in this action, which substitutes the United States for defendants Montefiore Family Health Center and Maria Gbur, M.D. and dismisses the claims against the United States without prejudice.

Plaintiff has separately requested that the Court remand her claims against the remaining defendants to the Supreme Court, Bronx County, where the action was filed prior to removal, “so that the state claims and action may continue.” (ECF 14.) The Court directed the United States to file a letter setting forth its views on plaintiff’s remand request, given that the Notice of Removal listed Montefiore Medical Center (“MMC”) as one of the removing defendants. (ECF 16, 1.) MMC is not included in the proposed Stipulation and Order of dismissal. (ECF 16.)

The United States explains that portions of the medical care at issue provided by MMC “fell outside the scope of its federal deeming” and therefore MMC is not part of the dismissal stipulation. (ECF 17.) “[T]he government’s position is that this case should be remanded.” (Id.) “[T]he scope of federal deeming does not extend to any remaining claims against MCC [sic]. Accordingly, as there are no other federally deemed defendants in the case, remand would be appropriate.” (Id.)¹

Because removal was premised on statutory rights of removal under the Public Health Service Act and the Federal Tort Claims Act, and because the United States agrees with plaintiff that remand is appropriate as to any remaining claims against MMC, the action will be remanded.

CONCLUSION.

This case is remanded to the Supreme Court of the State of New York, County of Bronx, under Index No. 800436/2022E, for further proceedings, and the Clerk of Court is directed to transfer the action against Montefiore Medical Center, Lincoln Medical Center and New York City Health and Hospitals Corporation to said Court. All claims in this Court having been dismissed or transferred, the Clerk is requested to terminate all motions and close the case.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
June 18, 2024

¹ The docket indicates that no appearance has been made on behalf of defendants Lincoln Medical Center and New York City Health and Hospitals Corporation, and no proof of service upon them has been filed.